



Attorney General's Task Force on Domestic Violence



Report & Recommendations
February 8, 2011



Although domestic violence may be personal, it is not private. It is an assault on a person, a family and a community. It affects our schools, our businesses and our safety. It is in everyone's interest to promote prevention, hold batterers accountable and provide security for those in need. And the need is pervasive: in 2009, domestic violence programs served 50,000 Missouri citizens -- yet for every two women admitted to a shelter, three had to be turned away due to local shelters having reached maximum capacity.

In 2010, I created the Attorney General's Task Force on Domestic Violence in order to examine Missouri's legal framework to determine how effectively our laws and practices are working. Since 1980, when Missouri first enacted its laws related to domestic violence, the legislature has periodically addressed the issue by amending the criminal code, creating civil orders of protection, and expanding victims' services. Law enforcement agencies, prosecutors and the judicial system have also developed internal practices to confront the challenges of domestic violence. After thirty years, it was time to examine the overall impact of the laws and practices, to identify problems and to suggest possible improvements.

To that end, I invited those involved throughout the domestic violence-protection system -- including law enforcement, prosecutors, victims' advocates, judges, probation and parole officers and court officials -- to present testimony at meetings in St. Louis, Columbia and Kansas City in September, 2010. I thank those who served on the Task Force, especially the bipartisan panel of legislators¹ who dedicated many hours of their time to participate, Colleen Coble of the Missouri Coalition Against Domestic and Sexual Violence, and Jason Lamb of the Missouri Office of Prosecution Services. Finally, I deeply appreciate the survivors of domestic violence who shared personal experiences of how overwhelming, isolating and terrifying it is for any individual facing intense and escalating violence.

Throughout the meetings, many issues were debated, sometimes passionately and to differing conclusions.² After a thorough review of the presentations and submitted materials, I am making a number of recommendations regarding our state's laws and procedures. These include statutory changes that require legislative initiatives, some as straightforward as enacting a consistent definition of "domestic violence," and others more comprehensive, such as updating the requirements and conditions of orders of protection and jurisdiction for juvenile respondents. I have included sample legislative language for each recommendation for a statutory change. Other recommendations identify best practices for law enforcement and the court system, including formalizing collaborative relationships among law enforcement, advocates and prosecutors. In addition, Appendix A contains a brief summary of the structure of current funding for services throughout the state.

By presenting these recommendations, I hope to address the weaknesses identified throughout the discussions, encourage continued efforts to protect those in need and prevent domestic violence. Victims

¹ Representatives Chris Kelly and Stacey Newman were present at all three cities. Other legislators attending hearings were: Senators Joan Bray, Jolie Justus, Kurt Schaefer, and Robin Wright-Jones; and Representatives Shalonn Curls, Jeff Grisamore, Tishaura Jones, Jason Kander, Margo McNeil, Jeff Roorda, Jill Schupp, Mary Still, and Stephen Webber.

² Complete transcripts of the meetings are available to the public on the Attorney General's website: www.ago.mo.gov.

of domestic violence are among our state's most vulnerable, and all of us in government owe it to them to make sure that we are working as seamlessly as possible through all aspects of our law enforcement and legal systems to protect them.

Respectfully,

A handwritten signature in black ink, reading "Chris Koster" in a cursive script.

CHRIS KOSTER
Attorney General

EXECUTIVE SUMMARY

The Attorney General makes the following twelve recommendations, classified in the categories of Statutory Changes and Best Practices.

Statutory Changes

RECOMMENDATION NO. 1

The General Assembly should provide consistency in terminology for orders protecting children and adults, including the definitions of “domestic violence,” “abuse,” “adult” and “family and household member,” in order to remove any confusion for courts issuing orders of protection, and law enforcement and prosecutors charged with enforcing them.

RECOMMENDATION NO. 2

By amending the process for orders of protection, set forth in sections 455.040 and 455.516, the General Assembly should: 1) provide juvenile court jurisdiction for respondents under the age of seventeen; 2) allow for an automatic extended renewal period, granting a hearing if requested by the respondent; 3) authorize that the judicial terms of orders reflect the individual circumstances of parties; 4) allow a judge to determine whether a petitioner’s dismissal of an action is voluntary; and 5) clarify the type of violations that may result in criminal offenses.

RECOMMENDATION NO. 3

The Division of Probation and Parole should be statutorily established as the credentialing agency authorized to establish standards for Batterer Intervention Programs.

RECOMMENDATION NO. 4

The General Assembly should limit municipal jurisdiction over offenders who repeatedly commit domestic assault or violate an order of protection, as it has already done with violations of driving while intoxicated, and allow municipal offenses to be used to enhance the level of criminal offense charged.

RECOMMENDATION NO. 5

Petitioners should not be required to pay a filing fee when filing a motion for contempt seeking enforcement of an existing order of protection.

RECOMMENDATION NO. 6

In order to promote accountability of batterers and the safety of families involved, the General Assembly should allow courts to order that probation granted pursuant to a domestic violence misdemeanor be supervised by the Division of Probation and Parole.

RECOMMENDATION NO. 7

Presently, domestic violence service agencies must commit resources to comply with comprehensive accounting requirements of funding from state departments, federal agencies and the Internal Revenue

Service. Flexibility should be allowed at the state level for agencies to retain a small percentage of funds to cover the administrative costs of meeting these accounting demands. This will help ensure the agency remains viable, in compliance with all regulations and requirements and able to assist the public.

Best Practices

RECOMMENDATION NO. 8

Law enforcement agencies should continue to emphasize training officers to produce detailed investigatory reports in order to provide prosecutors with strong cases, including accurate descriptions of the physical environment and the parties' demeanors, complete statements noting the emotional state of the victim and alleged aggressor, and photographs of injuries taken on follow-up visits.

RECOMMENDATION NO. 9

Law enforcement agencies and advocates should establish and formalize collaborative working relationships in order to better assist both victims and prosecutors, focusing on regional needs and resources. Examples of successful programs are Domestic Violence Intervention Partnerships, Domestic Violence Enforcement Units, and Lethality Assessment Programs.

RECOMMENDATION NO. 10

Law enforcement officers and courts should report any individual terms of an order of protection when entering information on the Missouri Uniform Law Enforcement System (MULES) to assist in enforcement of orders and to inform prosecutors of a defendant's prior or existing orders of protection or violations.

RECOMMENDATION NO. 11

Judges have the legal authority to require abusers to return to court at recurring intervals to assess compliance with the terms of an order of protection. Courts should utilize the ability to create special dockets to monitor the compliance with the terms of orders of protection as well as conditions of probation.

RECOMMENDATION NO. 12

In order to promote public safety, judges should make greater use of Supreme Court Rule 33 as authority to set conditions of bond for anyone violating an order of protection, and prioritize court hearings on the violation.



St. Louis County Circuit Court Judge Michael Burton testifies at the St. Louis hearing, held September 7.

Statutory Changes

RECOMMENDATION NO. 1

The General Assembly should provide consistency in terminology for orders protecting children and adults, including the definitions of “domestic violence,” “abuse,” “adult” and “family and household member,” in order to remove any confusion for courts issuing orders of protection, and law enforcement and prosecutors charged with enforcing them.

For consistency in law, whenever possible the same words should have the same meaning throughout a statutory chapter. This is hardly the case with Chapter 455, governing orders of protection. Section 455.010 contains general definitions for terms used for laws relating to adult orders of protection, and 455.501 defines terms specific to orders protecting children. “Adult” is defined in § 455.010 as age seventeen or older, but in § 455.501 as age eighteen or older. The term “family and household member” is defined differently in various statutory sections and even chapters. What constitutes a “pending” order of child custody or visitation is not specified, nor is “domestic violence” for adult orders of protection. In addition, several inconsistencies exist for terms relating to the enforcement of adult and child orders of protection. The disparity in statutory terminology results in confusion throughout the system, with officers unsure as to enforcement, courts uncertain regarding jurisdiction, and victims unclear on available protections.

The General Assembly should enact consistent definitions of terms related to domestic violence and orders of protection to reduce confusion and enhance enforcement. Since Chapter 455 encompasses Orders of Protection, one controlling definition of each term for the chapter should appear in § 455.010. Domestic violence should encompass “abuse” and “stalking” as those terms are already defined. Conflicting definitions of “domestic violence” and “family and household member” should be deleted from § 455.200, and § 455.540, listing additional differing definitions, in its entirety. Finally, the definition of “adult” should be consistent with Missouri’s juvenile code as a person age seventeen or older.

While the statutes for adult and child orders of protection both refer to violations concerning “abuse” as the basis for a criminal offense, the term is defined differently for the two types of orders. For adult orders, § 455.010 (1) states that abuse includes but is not limited to assault, battery coercion, harassment, sexual assault or unlawful imprisonment. With child orders, § 455.501 (1) defines abuse as “any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by an adult household member, or stalking of a child...” There should be one controlling definition in § 455.010 for the entire statutory chapter; the General Assembly should repeal § 455.501 to avoid the confusion resulting from the same words being defined differently in the same chapter.

Sections 455.050 and 455.513 prohibit the court from awarding custody of a minor child when a prior order is “pending or has been made...” However, the term “pending” is not defined in Chapter 455. This omission opens up the process to manipulation by a respondent who might file for divorce and custody after service of an ex parte order of protection, but prior to the hearing on the full order. To avoid that possibility, “pending” should be defined to prohibit entry of a custody award only when a previous order already exists or for which a hearing date has been set.

Further disparity exists in provisions of adult and child orders of protection, which becomes problematic when a respondent is subject to one order for a minor child and another to protect the child’s parent. In order to obtain an adult order of protection, the petitioner must prove allegations of “abuse or stalking” (§

455.040) while child orders require proof of only “abuse” (§ 455.516). The grounds for issuing an adult ex parte or full order of protection include stalking, and the order may prohibit “communicating” with the petitioner (§ 455.045, § 455.050), while the statutes on child orders omit stalking as a basis for issuance and may prohibit “contact” with the child except as ordered by the court (§ 455.520, § 455.523). The General Assembly should amend the statutes to provide children with the same protections as adults, and consistently reference “domestic violence” instead of abuse or stalking.

Other inconsistencies concern the types of violations that give rise to a criminal offense and the penalty for repeated violations. Section 455.085 provides that violating the term of an order prohibiting initiating communication with the petitioner or entering the petitioner’s home is a class A misdemeanor; repeated violations within a five-year period are a class D felony. Section 455.538 governing child orders of protection omits “initiating communication,” and completely fails to provide for an enhanced penalty regardless of the number of times a respondent violates the order.

Some sections in other chapters are also affected, for uniformity among laws. Sections 43.545 (requiring Highway Patrol to include reported incidents of domestic violence in the Missouri Crime Index), 455.543 (requiring law enforcement officers to determine if a homicide or suicide is related to domestic violence), and 527.290 (eliminating the need for public notice of a name change for victims of domestic violence) should now reference the new definition contained in § 455.010.

43.545. The state highway patrol shall include in its voluntary system of reporting for compilation in the “Missouri Crime Index” all reported incidents of domestic violence as defined in section 455.010, whether or not an arrest is made. All incidents shall be reported on forms provided by the highway patrol and in a manner prescribed by the patrol. ~~For purposes of this section only, “domestic violence” shall be defined as any dispute arising between spouses, former spouses, persons related by blood or marriage, individuals who are presently residing together or have resided together in the past and persons who have a child in common regardless of whether they have been married or have resided together at any time.~~

452.375. 2. The court shall determine custody in accordance with the best interests of the child. The court shall consider all relevant factors including:

....

(6) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence as defined in section 455.010 has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child and any other child or children for whom the parent has custodial or visitation rights, and the parent or other family or household member who is the victim of domestic violence from any further harm;

....

10. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, both parents shall have access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records. If the parent without custody has been granted restricted or supervised visitation because the court has found that the parent with custody or any child has been the victim of domestic violence, ~~as defined in section 455.200~~ as defined in section 455.010, by the parent without custody, the court may order that the reports and records made available pursuant to this subsection not include the address of the parent with custody or the child. Unless a parent has been

denied custody rights pursuant to this section or visitation rights under section 452.400, any judgment of dissolution or other applicable court order shall specifically allow both parents access to such records and reports.

....

13. If the court finds that domestic violence ~~or abuse~~, as defined in ~~sections~~ section 455.010 and 455.501, has occurred, the court shall make specific findings of fact to show that the custody or visitation arrangement ordered by the court best protects the child and the parent or other family or household member who is the victim of domestic violence ~~or abuse~~, as defined in ~~sections~~ section 455.010 and 455.501, and any other children for whom such parent has custodial or visitation rights from any further harm.

455.010. As used in ~~sections 455.010 to 455.085~~ this chapter, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to ~~sections 455.010 to 455.085~~ this chapter:

(a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

(b) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;

(c) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to another adult and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. Such conduct might include, but is not limited to:

a. Following another about in a public place or places;

b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;

(e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress;

(f) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;

(2) "Adult", any person seventeen years of age or older or otherwise emancipated;

(3) "Child", any person under seventeen year of age unless otherwise emancipated;

(4) "Court", the circuit or associate circuit judge or a family court commissioner;

(5) “Domestic violence”, abuse or stalking, as both terms are defined in this section;

(4) (6) “Ex parte order of protection”, an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(5) (7) “Family” or “household member”, spouses, former spouses, ~~adults~~ any person related by blood or marriage, ~~adults~~ persons who are presently residing together or have resided together in the past, ~~an adult~~ any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and ~~adults who have~~ anyone who has a child in common regardless of whether they have been married or have resided together at any time;

(6) (8) “Full order of protection”, an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(7) (9) “Order of protection”, either an ex parte order of protection or a full order of protection;

(8) (10) “Pending”, exists or for which a hearing date has been set;

(9) (11) “Petitioner”, a family or household member or ~~an adult~~ any person who has been the victim of stalking, or a person filing on behalf of a child pursuant to section 455.503, who has filed a verified petition pursuant to the provisions of section 455.020;

(10) (12) “Respondent”, the family or household member or adult person alleged to have committed an act of stalking, against whom a verified petition has been filed;

(13) “Stalking” is when ~~an adult~~ any person purposely and repeatedly engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person’s situation to have been alarmed by the conduct. As used in this subdivision:

(a) “Alarm” means to cause fear of danger of physical harm;

(b) “Course of conduct” means a pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact; and

(c) “Repeated” means two or more incidents evidencing a continuity of purpose.

455.050. 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from ~~abuse or stalking~~ domestic violence...

455.200. As used in sections 455.200 to 455.230, unless the context clearly requires otherwise, the following words and phrases mean:

(1) “Designated authority”, the board, commission, agency, or other body designated under the provisions of section 455.210 as the authority to administer the allocation and distribution of funds to shelters;

(2) ~~“Domestic violence”, attempting to cause or causing bodily injury to a family or household member, or placing a family or household member by threat of force in fear of imminent physical harm;~~

(3) ~~“Family or household member”, a spouse, a former spouse, person living with another person whether or not as spouses, parent, or other adult person related by consanguinity or affinity, who is residing or has resided with the person committing the domestic violence and dependents of such persons;~~

(4) ~~“Shelter for victims of domestic violence” or “shelter”, a facility established for the purpose of providing temporary residential service or facilities to family or household members who are victims of domestic violence.~~

455.501. ~~As used in sections 455.500 to 455.538, the following terms mean:~~

(1) ~~“Abuse”, any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by an adult household member, or stalking of a child. Discipline including spanking, administered in a reasonable manner shall not be construed to be abuse;~~

(2) ~~“Adult household member”, any person eighteen years of age or older or an emancipated child who resides with the child in the same dwelling unit;~~

(3) ~~“Child”, any person under eighteen years of age;~~

(4) ~~“Court”, the circuit or associate circuit judge or a family court commissioner;~~

(5) ~~“Ex parte order of protection”, an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;~~

(6) ~~“Full order of protection”, an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;~~

(7) ~~“Order of protection”, either an ex parte order of protection or a full order of protection;~~

(8) ~~“Petitioner”, a person authorized to file a verified petition under the provisions of sections 455.503 and 455.505;~~

(9) ~~“Respondent”, the adult household member, emancipated child or person stalking the child against whom a verified petition has been filed;~~

(10) ~~“Stalking”, when an adult purposely and repeatedly engages in an unwanted course of conduct with regard to a child that causes another adult to believe that a child would suffer alarm by the conduct. As used in this subdivision:~~

(a) ~~“Course of conduct” means a pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or contact;~~

(b) ~~“Repeated” means two or more incidents evidencing a continuity of purpose; and~~

(c) ~~“Alarm” means to cause fear of danger of physical harm;~~

(11) ~~“Victim”, a child who is alleged to have been abused by an adult household member.~~

455.516. 1. Not later than fifteen days after the filing of a petition under sections 455.500 to 455.538, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, which may be an open or a closed hearing at the discretion of the court, whichever is in the best interest of the child, if the petitioner has proved the allegation of abuse of domestic violence against a child by a preponderance of the evidence, the court may issue a full order of protection...

....

455.520. 1. Any ex parte order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from abuse domestic violence and may include:

(1) Restraining the respondent from abusing, threatening to abuse, molesting or disturbing the peace of the victim;

(2) Restraining the respondent from entering the family home of the victim except as specifically authorized by the court;

(3) Restraining the respondent from ~~having any contact~~ communicating with the victim in any manner or through any medium, except as specifically authorized by the court;

(4) A temporary order of custody of minor children.

2. No ex parte order of protection excluding the respondent from the family home shall be issued unless the court finds that:

(1) The order is in the best interests of the child or children remaining in the home;

(2) The verified allegations of abuse domestic violence present a substantial risk to the child or children unless the respondent is excluded;

(3) A remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and

(4) A commitment has been obtained from the local division of family services office to provide appropriate social services to the family or household members during the period of time which an order of protection is in effect.

455.523. 1. Any full order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from abuse domestic violence and may include:

(1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting or disturbing the peace of the victim;

(2) Temporarily enjoining the respondent from entering the family home of the victim, except as specifically authorized by the court;

(3) Temporarily enjoining the respondent from ~~having any contact~~ communicating with the victim in any manner or through any medium, except as specifically authorized by the court.

....

455.538. 4. (1) Violation of the terms and conditions of an ex parte or full order of protection with regard to abuse, child custody, communication initiated by the respondent, or entrance upon the premises of the victim's dwelling unit, of which the respondent has notice, shall be a class A misdemeanor. Violation of the terms and conditions of an ex parte or full order of protection for a child regarding abuse, child custody, or entrance upon the premises of the petitioner's dwelling unit or school, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of a prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

....

~~455.540. As used in sections 455.540 to 455.547, the following terms shall mean:~~

~~(1) "Adult", any person eighteen years of age or older;~~

~~(2) "Domestic violence", as provided in section 455.200.~~

455.543. 1. In any incident investigated by a law enforcement agency involving a homicide or suicide, the law enforcement agency shall make a determination as to whether the homicide or suicide is related to domestic violence, ~~as defined in section 455.200.~~

2. In making such determination, the local law enforcement agency may consider a number of factors including, but not limited to, the following:

(1) If the relationship between the perpetrator and the victim is or was that of a family or household member, ~~as defined in section 455.010;~~

(2) Whether the victim or perpetrator had previously filed for an order of protection ;

(3) Whether any of the subjects involved in the incident had previously been investigated for incidents of domestic violence; and

(4) Any other evidence regarding the homicide or suicide that assists the agency in making its determination.

....

527.290. 2. Public notice of such name change through publication as required in subsection 1 of this section shall not be required if the petitioner is:

(1) The victim of a crime, the underlying factual basis of which is found by the court on the record to include an act of domestic violence, as defined in section ~~455.200~~ 455.010;

(2) The victim of child abuse, as defined in section 210.110; or

(3) The victim of abuse by a family or household member, as defined in section 455.010.

RECOMMENDATION NO. 2

By amending the process for orders of protection, set forth in sections 455.040 and 455.516, the General Assembly should: 1) provide juvenile court jurisdiction for respondents under the age of seventeen; 2) allow for an automatic extended renewal period, granting a hearing if requested by a respondent; 3) authorize that the judicial terms of orders reflect the individual circumstances of parties; 4) allow a judge to determine whether a petitioner's dismissal of an action is voluntary; and 5) clarify the type of violations that may result in criminal offenses.

Orders of protection are the main tool our system has to provide security to those suffering from domestic abuse. However, witnesses testifying before the Task Force consistently identified flaws in the current legal structure regarding orders of protection. The specific flaws, discussed in detail below, included the court's limited ability to specify conditions that fully protect the petitioner, inconsistent remedies between adult and child orders, and the inability to enter an order against a respondent less than eighteen years of age, among numerous others. By amending the process for orders of protection, the General Assembly could more effectively protect those in need and prevent additional violence. Below is a discussion of significant flaws and statutory recommendations to address each issue.

Juvenile Respondents

Currently, the law does not provide for certain situations in which the abusive party is a teenager: teenagers under seventeen cannot have an adult order of protection entered against them by someone seventeen or older, and teenagers under eighteen cannot obtain a child order of protection for themselves against another teen. For example, currently a seventeen-year-old who dates an abusive eighteen-year-old cannot obtain an order of protection.

There are two steps to remedying this situation. First, the definition of "adult" must be consistent. As previously noted, "adult" is defined in § 455.010 as age seventeen or older, but in § 455.501 as age eighteen or older. For both adult and child orders of protection, "adult" should be age seventeen or older, consistent with the juvenile code in Chapter 211.

Second, the law should allow for teenage respondents, but provide for juvenile court jurisdiction. Any cases involving a juvenile respondent (those under age seventeen) could be transferred to juvenile court after the entry of ex parte order. The juvenile court is also more likely to be aware of any history of cases involving the same respondent.

The General Assembly should add a new subsection to both § 455.035 and § 455.513 requiring a case to be transferred to juvenile court after entry of an ex parte order, and adding a new subdivision to § 211.031 granting the juvenile court authority to enter full orders of protection when needed against a juvenile respondent. The statutory language below includes the revision to the definition of "family or household member" in § 455.010 and the repeal of § 455.501, as outlined in Recommendation 1.

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

....

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law; and

(6) Involving an order of protection pursuant to chapter 455, RSMo, when the respondent is less than seventeen years of age.

....

455.035. 3. If an ex parte order is entered and the allegations in the petition would give rise to jurisdiction under section 211.031 because the respondent is less than seventeen years of age, the court shall transfer the case to juvenile court for a hearing on a full order of protection.

455.513. 4. If an ex parte order is entered and the allegations in the petition would give rise to jurisdiction under section 211.031 because the respondent is less than seventeen years of age, the court shall transfer the case to juvenile court for a hearing on a full order of protection.

Extended Renewal Periods

The current duration of orders of protection is limited to one year, with only two possible renewals upon motion of either party, or, in the case of child orders, the guardian ad litem or child advocate. Consequently, the petitioner and minor children protected by an order are required to face the trauma of repeatedly returning to court if the threat of abuse still exists, even in the most extreme of cases.

Upon a finding that it is in the best interest of the parties, the court should be able to provide that a full order of protection of one year can be renewed automatically, with no limit on renewals. If a respondent does not request a hearing within 30 days of an order's expiration, the petitioner should not be required to appear in court. When the order of protection is for less than one year, or the court does not find it is in best interest of the parties to allow an automatic renewal, the petitioner could file a motion to renew an existing order after a hearing, as provided in current law.

The relevant language is in § 455.040.1, for adult orders of protection, and § 455.516.1 for child orders of protection. Suggested language follows:

455.040. 1. ...Upon motion by the petitioner, and after a hearing by the court, the a full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. The court may, upon finding that it is in the best interest of the parties, include a provision that any full order of protection for one year shall automatically renew unless the respondent requests a hearing within thirty days of the expiration of the order. If for good cause a hearing cannot be held on the motion to renew or the objection to an automatic renewal of the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. ~~Upon~~ When an automatic renewal is not authorized, upon motion by the petitioner, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

....

4. The court shall cause a copy of any objection filed by the respondent and notice of the date set for the hearing on such objection to an automatic renewal of a full order of protection for a period of one year to be personally served upon the petitioner by personal process server as provided by law or by any sheriff or police officer at least three days prior to such hearing. Such shall be served at the earliest time, and service of such shall take priority over service in other actions, except those of a similar emergency nature.

455.516. 1. ... The court may, upon finding that it is in the best interest of the child, include a provision that any full order of protection for one year shall automatically renew unless the respondent requests a hearing within thirty days of the expiration of the order. If for good cause a hearing cannot be held on the motion to renew or to terminate the automatic renewal of the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. ~~Upon~~ When an automatic renewal is not authorized, upon motion by either party, the guardian ad litem or the court appointed special advocate, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the second full order of protection. If for good cause a hearing cannot be held on the motion to renew the second full order of protection prior to the expiration date of the second order, an ex parte order of protection may be issued until a hearing is held on the motion. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

....

5. The court shall cause a copy of any objection filed by respondent and notice of the date set for the hearing on such objection to an automatic renewal of a full order of protection for a period of one year to be personally served upon the petitioner by personal process server as provided by law or by any sheriff or police officer at least three days prior to such hearing. Such shall be served at the earliest time, and service of such shall take priority over service in other actions, except those of a similar emergency nature.

Specific Terms of Orders of Protection

Section 455.050 lists fifteen terms that the court may include in an order of protection, but does not include any authority by which a court can impose specific conditions that address the unique circumstances of parties. Consequently, it is not clear that a judge has the authority to address many other issues, such as restricting a respondent from appearing at the petitioner's place of employment. This apparent limitation on the court's authority needlessly restricts the protection available to a petitioner.

By including a broader grant of authority to structure the terms of an order, similar to the authority to impose conditions of probation, batterers will be held more accountable. Conditions of probation, pursuant to § 559.021, "shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will not again violate the law. When a defendant is placed on probation he shall be given a certificate explicitly stating the conditions on which he is being released." Similar language should be included in § 455.050 for adult full or ex parte orders of protection, § 455.520 ex parte child orders of protection, and § 455.523 for full orders of child protection.

455.050. 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from ~~abuse or stalking~~ domestic violence and may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

....

455.520. 1. Any ex parte order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from ~~abuse~~ domestic violence and may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

....

455.523. 1. Any full order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from ~~abuse~~ domestic violence and may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

....

Dismissal of Actions

Currently, if a petitioner files a dismissal of an order of protection, it is automatically dismissed. The court does not have the opportunity to examine the circumstances to determine whether the dismissal is actually voluntary or under duress or coerced by the respondent. Once an action is dismissed, the respondent often stops participation with previously required treatment or education to prevent repeated abuse. This can lead to a cycle of dismissals and refileing, resulting in less credibility placed in court orders, wasting of law enforcement resources, and, most critically, deprivation of needed protections for victims. Courts should be authorized to make a specific inquiry into the circumstances of a request to dismiss an order of protection, to provide an additional safeguard for a petitioner.

455.060. 5. Any order of protection or order for child support, custody, temporary custody, visitation or maintenance entered under sections 455.010 to 455.085 shall terminate upon the filing of order of the court granting a motion to terminate the order of protection by the petitioner; except that, in cases where the order grants custody of a minor child to the respondent, the order shall terminate only upon consent of both parties or upon the respondent's failure to object within ten days of receiving the petitioner's notice of the filing of the motion to dismiss. If the respondent timely objects to the dismissal, the The court shall set the motion to dismiss for hearing and both parties shall have an opportunity to be heard. Prior to terminating any order of protection, the court may examine the circumstances of the motion to dismiss, and may inquire of the petitioner or others in order to assist the court in determining if dismissal is voluntary.

Violations Resulting in Criminal Offenses

Section 455.085 currently creates a criminal violation for only a relatively narrow subset of violations of a civil order of protection: abuse or stalking, failure to surrender custody of a minor child, initiating communication with the petitioner, or entering the petitioner's premises. Those violations are class A misdemeanors; repeated violations within a five-year period are categorized as class D felonies.

Although a respondent may violate an order of protection in ways that present serious threats to the safety and security of the petitioner, the petitioner's family and the general public, such as entering the petitioner's

place of employment or school, the only available remedy is a civil motion for contempt, with limited penalties. The survivors of abuse who testified to the Task Force described a pattern of violations for which the respondent faced limited consequences, leading to escalating violence. By expanding the criminal penalties to more than four types of violations, the General Assembly could empower law enforcement, promote greater adherence to court orders protecting victims and increase public safety.

455.085. 7. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent, or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of petitioner or a child of petitioner, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of petitioner or a child of petitioner, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of abuse or violation of an order of protection presented a copy of the order of protection to the respondent.



Boone County Prosecuting Attorney Dan Knight testifies
September 20, 2010, a the hearing held in Columbia.

RECOMMENDATION NO. 3

The Division of Probation and Parole should be statutorily established as the credentialing agency authorized to establish standards for batterer intervention programs.

Although courts currently may order offenders to attend batterer intervention programs as a condition of probation or an order of protection, no government agency has adopted or enforces statewide standards to ensure their uniformity and credibility. Some programs involve a 24-week involvement, with attendance tracked and reported to the court, while others may have minimal requirements. Additionally, large areas of the state have no batterer intervention programs available, resulting in resorting to general anger management courses, with questionable effectiveness for abusers.

The General Assembly should require that entities choosing to offer batterer intervention programs meet basic statewide uniform requirements, as it has with sex offender treatment and substance abuse programs. The Missouri Coalition Against Domestic and Sexual Violence has created standards that are comprised of nationally recognized best practices for batterer intervention programs. The Division of Probation and Parole, within the Department of Corrections, is an appropriate credentialing agency to promulgate such regulations, as the agency most familiar with the needs of offenders. Suggested language follows:

455.549. In consultation with the statewide domestic violence coalition, the division of probation and parole of the department of corrections shall promulgate rules to establish standards and to adopt a credentialing process for any court-appointed batterer intervention program.

RECOMMENDATION NO. 4

The General Assembly should limit municipal jurisdiction over offenders who repeatedly commit domestic assault or violate an order of protection, as it has already done with violations of driving while intoxicated, and allow municipal offenses to be used to enhance the level of criminal offense charged.

When an order of protection is violated, the case may be brought in municipal court or circuit court. Sections 455.085 and 455.538 provide that certain violations of orders of protection constitute a class A misdemeanor. Repeated violations within a five-year period are enhanced to a class D felony. Prior municipal offenses, however, cannot currently be used to enhance the penalty. Consequently, a respondent found to have repeatedly violated an order of protection or repeatedly convicted of domestic violence assault can avoid an enhanced penalty if the cases were before a municipal court.

A new provision should be enacted to limit municipal court jurisdiction when a respondent persistently violates an order of protection. In addition, the municipal violations and convictions should provide a basis to enhance the severity of the criminal offense, in the same way that a municipal conviction for driving while intoxicated enhances a similar state conviction. Accurate recording of violations in MULES, identified as a best practice in Recommendation 9, is critical in order for prosecutors to appropriately charge the offense and for judges to ascertain proper jurisdiction.

455.085. 7. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent, or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of petitioner or a child of petitioner, of an ex parte order of protection of which the respondent has notice, shall be a class A

misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty in state or municipal court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of petitioner or a child of petitioner, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in state or municipal court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of abuse or violation of an order of protection presented a copy of the order of protection to the respondent.

11. If a respondent has previously violated an ex parte or full order of protection, a municipal court shall transfer the case to circuit court.

455.538. 4. (1) Violation of the terms and conditions of an ex parte or full order of protection with regard to abuse, child custody, or entrance upon the premises of the victim's dwelling unit or place of employment or school, or being within a certain distance of petitioner or a child of petitioner, of which the respondent has notice, shall be a class A misdemeanor. ~~Violation of the terms and conditions of a full order of protection for a child regarding abuse, child custody, or entrance upon the premises of the petitioner's dwelling unit, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty in state or municipal court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or findings of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.~~

....

565.074. 3. A person who has pleaded guilty to or been found guilty of the crime of domestic assault in the third degree more than two times against any family or household member as defined in section 455.010, or of any offense committed in violation of any county or municipal ordinance in any state,

any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of this section, is guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault. The offenses described in this subsection may be against the same family or household member or against different family or household members

RECOMMENDATION NO. 5

Petitioners should not be required to pay a filing fee when filing a motion for contempt seeking enforcement of an existing order of protection.

Section 455.027 prohibits a petitioner from being charged a filing fee in any action brought under §§ 455.010 – 455.085 (adult orders of protection). The authority to file a motion for contempt for violation of an order appears in § 455.090, but contains no similar prohibition. Consequently, a victim is ensured access to the system to obtain an order but may be financially barred from receiving its protection once its terms are violated. In addition, to retain eligibility for federal funding, the federal Violence Against Women Act requires that states prohibit charging costs or fees to victims of domestic violence for seeking, obtaining or enforcing orders of protection.

The prohibition against requiring petitioners to pay filing fees should include motions for contempt.

455.027. No filing fees, court costs, or bond shall be assessed to the petitioner in an action commenced pursuant to sections 455.010 to ~~455.085~~ 455.090.

RECOMMENDATION NO. 6

In order to promote accountability of batterers and the safety of families involved, the General Assembly should allow courts to order that supervised probation for domestic violence misdemeanors be eligible for programs offered through the Department of Corrections.

Many convictions for domestic assault offenses are for misdemeanors. It is important for misdemeanor offenders to remain accountable throughout the period of probation, to discourage future domestic assault felonies for repeated offenses. One effective way to achieve this accountability would be for the General Assembly to authorize courts to impose supervised probation when appropriate for those guilty of domestic assault misdemeanors, which would allow those offenders to be eligible for participation in certain programs.

Supervised probation is generally used for those guilty of felonies. The Division of Probation and Parole currently supervises a limited number of domestic assault and violation of orders of protection cases, some of the only misdemeanor charges that it oversees. However, misdemeanor cases are not eligible for programs offered through the Department of Corrections, such as community release centers, which are reserved for felony convictions and parolees. As a result, the effectiveness of the supervision is limited. The Division would need to determine whether current funding could accommodate implementation of additional duties.

The Division of Probation and Parole has its own ongoing Domestic Violence Task Force, which is examining the use of state-supervised probation for domestic violence misdemeanors, rather than court or private probation. I commend the Division for its efforts to increase staff knowledge and standardize its response to domestic violence.

RECOMMENDATION NO. 7

Presently, domestic violence service agencies must commit resources to comply with comprehensive accounting requirements of funding from state departments, federal agencies and the Internal Revenue Service. Flexibility should be allowed at the state level for agencies to retain a small percentage of funds to cover the administrative costs of meeting these accounting demands. This will help ensure the agency remains viable, in compliance with all regulations and requirements and able to assist the public.

Non-profit domestic violence programs must comply with the same type of regulations and requirements of the Internal Revenue Service as those required of for-profit businesses, as well as the time-consuming reporting requirements of state and federal government funding agencies. While the federal government allows the state agencies administering the grants to retain up to a 15% administrative allowance of these funds to compensate for the time involved in complying with reporting requirements, the community-based programs receiving the grant funds are not allowed to use any of the money for administrative reporting and accounting purposes. Retention of a minimal amount of 10% would assist these agencies to meet the accounting requirements, provide transparency and accountability, and remain a viable resource for those they serve.

One source of funding is through the Services to Victims Fund, established in § 595.100. By amending one subsection, the General Assembly could authorize that administrative costs are capped at 10%:

595.100. 1. There is hereby established in the state treasury the “Services to Victims Fund” which shall consist of money collected pursuant to section 595.045. The fund shall be administered by the department of public safety. Upon appropriation, money in the fund shall be used solely for the administration of sections 595.050, 595.055 and 595.105, except that public or private agencies, as defined by section 595.050, may use no more than ten percent of any funds received for administrative purposes.



Cole County Sheriff's Department Det. Sgt. Robert Bruchsaler and Catherine Vannier, Domestic Violence Resource Prosecutor of the Missouri Office of Prosecution Services, testify at the Columbia hearing.

Best Practices

RECOMMENDATION NO. 8

Law enforcement agencies should continue to emphasize training officers to produce detailed investigatory reports in order to provide prosecutors with strong cases, including accurate descriptions of the physical environment and the parties' demeanors, complete statements noting the emotional state of the victim and alleged aggressor, and photographs of injuries taken on follow-up visits.

Holding the abuser accountable is a critical first step to protecting victims of domestic violence. In some domestic violence cases, however, victims fear for the safety of themselves and their families if they assist the prosecution, leaving prosecutors with a difficult case to prove in order to obtain a conviction. This situation can be avoided if the evidence developed is strong enough to support a conviction without relying exclusively upon the testimony of the victim. In testimony to the Task Force, both prosecutors and law enforcement officers stressed that, as front-line responders, officers are in the best position to observe and fully document the revealing details of abuse.

Training for law enforcement officers should include an emphasis on obtaining a complete and detailed description of the physical premises, including the level of disarray, and photographs that portray suspect's demeanor and the emotional state of the victim. Officers should observe whether any blood trail appeared inside or outside the premises, or if attempts were made to wash one away. A description of the emotional condition of the victim and the alleged aggressor should be included with any statements. Such evidence can provide prosecutors with the needed tools to get a statement into evidence, demonstrating its reliability without requiring the victim to appear at trial.

Officers should not underestimate the importance of follow-up evidence. Injuries develop over time: photographs taken three days or longer after the assault may reveal the true gravity of the injuries, and victims may seek medical attention. Subsequent interviews with the victim can ensure that an incident is not charged as a misdemeanor when the evidence supports a felony charge. Critically, renewed contact with the parties days after an incident also demonstrates that the system is treating domestic violence with the utmost seriousness.

RECOMMENDATION NO. 9

Law enforcement agencies and advocates should establish and formalize collaborative working relationships in order to better assist both victims and prosecutors, focusing on regional needs and resources. Examples of successful programs are Domestic Violence Intervention Partnerships, Domestic Violence Enforcement Units, and Lethality Assessment Programs.

Currently, local jurisdictions vary in how they handle domestic violence cases, with inconsistent results. With the common goal of assisting victims of domestic abuse, reducing the number of incidents and holding offenders accountable, several regions have successfully adopted collaborative projects with advocates: the St. Louis Metropolitan Police Department participates in Domestic Violence Intervention Partnerships; Boone County Sheriff's Department and the Columbia Police Department have a designated Domestic Violence Enforcement units; and the Kansas City, Raytown and Grandview Police Departments cooperate in a Lethality Assessment Program. Often the success of the collaboration depends upon involving advocates at the earliest stages of investigations. Every jurisdiction should examine whether it could develop similar innovative relationships with advocates from local domestic violence programs and shelters, based on its specific needs and available resources.

The Domestic Abuse Response Team, housed within the Sex Crimes and Family Violence Section of the St. Louis Metropolitan Police Department, initiated more than 1,800 cases in 2009 and served as an in-house resource for training other officers regarding stalking and orders of protection laws. In 1997, it began a Domestic Violence Intervention Partnership (DVIP) through a Memorandum of Understanding between the Department and Legal Advocates for Abused Women, which places advocates at police headquarters to interact with officers working cases. DVIP has evolved since then to become a crucial part of how law enforcement responds to domestic violence victims. Advocates ensure that victims are provided with necessary services, and allow the officers to focus on investigating the case. In addition, the advocates provide insight with how officers handle a situation, participate in the 40-hour block of domestic violence training at the Police Academy, and supply a grant partner for the Department.

Approximately thirteen years ago, the Columbia Police Department, Boone County Sheriff's Department, the Division of Probation and Parole and representatives from the local domestic violence shelter formed a Domestic Violence Enforcement (DOVE) Unit. It currently also includes assistant prosecutors, court liaisons, advocates and investigators. The DOVE unit meets monthly to review cases, develop solutions to specific challenges and coordinate the community response to domestic violence cases. Two advocates work directly with the detectives, sharing time between the two agencies. In reviewing the time of calls received after normal business hours, they were able to formulate a schedule for a "first response" advocate to ensure more people received immediate services. DOVE unit officers were assigned to follow up with victims of reported abuse within 24-36 hours after the initial call to assist in obtaining statements and collecting evidence. They also assisted in training at other law enforcement agencies, and spoke to local high school and college classes about recognizing abuse and finding assistance.

While the Lethality Assessment Program was the newest of the three collaborative projects that were detailed to the Task Force, it has already had an impact in the Kansas City area. The experience of those involved indicates that the danger of lethality is significantly reduced when victims obtain services. Initiated in June 2009, the program combines the efforts of the three metropolitan police departments in Kansas City, Raytown and Grandview, with domestic violence agencies Rose Brooks Center, Synergy Services and

Hope House. The Maryland State Police and Maryland Coalition Against Domestic Violence, which had already developed a model program, provided training. In order to determine the risk for when domestic violence could become lethal, the Lethality Assessment Program created a research-based questionnaire for the officers to complete at the scene. If the responses indicate a high risk, the officer immediately provides the victim with a call to a domestic violence agency hotline. Information is transmitted via facsimile to both the law enforcement agency and a domestic violence agency to facilitate follow-up contacts. Since the program was introduced in the Kansas City area, police have screened almost 2,700 calls – an average of seven a day. Of these, 76% of those assessed at a high danger spoke to an advocate; officers worked out safety planning with the remainder at the scene. As a consequence of the program's success, all shelters in the region are operating in excess of full capacity. The fact that the program has been accomplished without any additional funding demonstrates the commitment and dedication of the law enforcement and domestic violence advocates involved.

In the above examples, law enforcement agencies, prosecutors and advocates examined the needs of their unique areas, and with imagination and commitment, developed successful programs to assist those in need. I encourage other jurisdictions to review and adapt these models to provide similar community-based programs.



Collen Coble, CEO of Missouri Coalition Against Domestic and Sexual Violence, testifies before Task Force members Senator Kurt Schaefer (Dist. 19), Representative Chris Kelly (Dist. 24), and Attorney General Chris Koster.

RECOMMENDATION NO. 10

Law enforcement officers and courts should report any individual terms of an order of protection when entering information to the Missouri Uniform Law Enforcement System (MULES), to assist in enforcement of the orders and to inform prosecutors of a defendant's prior or existing orders of protection or violations.

The goal of reducing the opportunity for offenders to violate orders of protection with impunity requires full and open communication. Currently, the general practice is to report that an order of protection was entered and whether or not it was served. It is equally vital for officers and prosecutors to be aware of the individual terms of an order so that it can be fully enforced.

When reporting the order of protection into the Missouri Uniform Law Enforcement System, officers and court personnel should include any individual terms or conditions to better enable officers to know when a violation has occurred and to allow prosecutors to know when to charge the offense as a repeated violation. This becomes increasingly important when orders are tailored to the specific circumstances of the parties. For example, if an order specifies that respondent is not to be within a certain distance of the petitioner's workplace, an officer would know that the respondent is in violation by appearing there and be able to enforce the order.

RECOMMENDATION NO. 11

Courts should better utilize section 455.090.1 and use compliance dockets to monitor respondents under orders of protection.

In 2004, the General Assembly enacted section 455.090, which authorizes a court to schedule review hearings to monitor a respondent's compliance with an order of protection. While the authority has existed, it has not been widely utilized. Creating compliance dockets may pose an additional responsibility on the judiciary and court personnel, but the benefits can far outweigh any burden. Regular compliance dockets can demonstrate whether the offender has violated any terms of an order of probation that the court can report to Probation and Parole, or verify attendance at any required batterer intervention program as required by an order of protection. This model mirrors the successful approach used with drug courts to keep offenders in compliance with treatment programs and other terms of probation or parole. Ultimately, regular use of compliance dockets promotes greater victim safety through increased adherence to the terms of an order by holding offenders accountable.

RECOMMENDATION NO. 12

In order to promote public safety, judges should make greater use of Supreme Court Rule 33 as authority to set conditions of bond for anyone violating an order of protection, and prioritize court hearings on the violation.

Domestic assault in the third degree is a class A misdemeanor, usually resulting in a low enough bond for the defendant to obtain release. While one of the typical conditions of bond would be to have no contact with the victim, the offender may violate this condition. If arrested, another bond may be set, in a cycle that is too familiar throughout the state, leading abusers to disrespect the system and victims to distrust it. Judge Deborah Daniels of Boone County Circuit Court spoke to the Task Force regarding her practice of using her authority over the conditions of release to hold defendants accountable and preserve public safety.

Missouri Supreme Court Rules 33.01 through 33.20 authorize judges to set the conditions of release for those charged with felonies or misdemeanors. If an offender violates the no-contact conditions of a bond to threaten or injure a victim, the prosecutor should alert the court that the condition of bond was violated. By holding a hearing as quickly as possible, the court can determine whether bond should be revoked or if additional conditions, such as electronic monitoring, should be imposed. If the court observes a risk of repeating violence and potential danger to the community, the authority to enforce the conditions of release provides an opportunity to break the cycle.



Maria Speer presents testimony to Task Force panel members Rep. Chris Kelly; Jason Lamb, Director of Missouri Office of Prosecution Services; Colleen Coble; Deputy Attorney General Joe Dandurand and Attorney General Chris Koster at the Kansas City hearing, held September 27, 2010.

APPENDIX A

Structure of Sources of Funding

The difficulty of providing sufficient resources to meet the challenges of domestic violence, including emergency care and shelter, has existed from the inception of Missouri's laws on the issue. Demands on services have grown with the economic downturn, as victims have fewer resources to provide for alternative housing and support.

The Fiscal Year 2010 budget appropriated \$4.75 million of general revenue, before a 15% Governor's withhold, to domestic violence programs. This represents an average of approximately \$50,000 of state general revenue for each shelter, to provide around-the-clock services and housing for one year for those in need. In addition, state crime fines, supporting services for all victims of crime, totaled \$4.75 million. Other funds are received through federal grants and administered by state agencies.

Following is a description of the various sources and administration of funding that currently supports domestic violence services in Missouri:

State Sources

State General Revenue: \$4.75 million

State General Revenue funding supports domestic violence core services including emergency shelter, 24-hour hotlines, crisis intervention, legal advocacy, counseling, support groups and case management. The money does not support educational prevention programs. These funds are administered by the Department of Social Services, through contracts with local shelters and non-residential domestic violence programs. The Governor withheld 15% percent of the Fiscal Year 2010 appropriation.

State Services to Victims Fund: \$4.75 million

Section 595.045 provides that certain costs are assessed in criminal cases and deposited into the Crime Victims Compensation Fund. The money supports the state crime labs, and the staff and operational costs of the Office of Victims of Crime. Half of the remaining balance is deposited into the State Services to Victims Fund, administered by the Department of Public Safety.

State and local governments and private nonprofit agencies receive awards from the State Services to Victims Fund to provide direct services to victims of crime. Eligible direct services include crisis intervention, emergency shelter and other emergency services, support and advocacy services, court-related services, and training and technical assistance programs. The funding is used by approximately 100 different agencies statewide, including domestic violence shelters, rape crisis centers, child abuse treatment facilities, law enforcement and prosecutors, to provide high quality services that directly improve the health and well being of victims of crime.

Tax Credit for Domestic Violence Donations: \$789,750

Section 135.550 allows a donor to claim a tax credit of fifty percent of any donation to an authorized domestic violence shelter (as designated by the Department of Social Services). The individual credit is limited to \$50,000 per tax year, and may not exceed the amount of tax liability but may be carried over for up to four years. The total tax credit is capped at \$2 million per year. In Fiscal Year 2010, the Department's tax credit analysis report indicates that \$789,750 has been redeemed to date.

Federal Sources

Family Violence Prevention and Services Act: \$1.69 million

Under this act, a base amount of federal funding is allocated to each state, plus an additional percentage based on population. The money is designated to be used for domestic violence core services including emergency shelter, 24-hour hotlines, crisis intervention, legal advocacy, counseling, support groups and case management. The money is identified as federal funds in a line item in the budget for the Department of Social Services, which allocates the money through competitive contracts with domestic violence programs.

Services, Training, Officers, Prosecution (STOP) Grants: \$2.5 million

Federal grant money supports the efforts of law enforcement, prosecutors, courts and victim service providers in addressing domestic and sexual violence. The federal government allocates a base amount to each state plus an additional amount based on population. Federal law requires that states award these funds based on a percentage of the total for each of the eligible groups. The allocation appears in the state budget as a line item designated as federal funds, administered by the Department of Public Safety through grants.

At least 25% of the total grant funds available must be allocated to both law enforcement and prosecution, 30% to victim services agencies and 5% to court initiatives. In distributing funds, Missouri must give priority to areas of varying geographic size with the greatest showing of need, take into consideration the geographic population of the area to be served, equitably distribute monies geographically including non-urban and rural areas, and ensure that the needs of previously underserved populations are identified and addressed.

Victims of Crime Act (VOCA): \$6.8 million

Federal crime fines are assessed to every convicted defendant. The money is allocated to each state for two purposes: 1) direct compensation for losses suffered by victims of crime (the Crime Victims' Compensation program); and 2) a grant program that funds direct services to all victims of crime. The VOCA grant program for service provision is included within the budget of the Department of Public Safety as a line item amount designated as federal funds.

VOCA guidelines require that a minimum of 10% of the total funds be distributed for services to each of the following four types of crime victims: domestic violence, sexual assault, child abuse and underserved. Victim assistance programs serving other types of crime victims are also eligible for funding. Eligible direct services include, but are not limited to, crisis intervention, emergency shelter and other emergency services, support and advocacy services, court-related services, and others. This grant program requires a 20% local match, which may be either cash or in-kind contributions.

For More Information Contact:
Missouri Attorney General's Office
Supreme Court Building
207 W. High St., P.O. Box 899
Jefferson City, MO 65102
Phone: 573-751-3321 • Fax: 573-751-0774